

## RULE 35. Hamilton County Drug Treatment and Recovery Court

### **(A) General Provisions**

#### **(1) Mission Statement**

The mission of drug courts is to stop the abuse of alcohol and other drugs and related criminal activity. Drug courts promote recovery through a coordinated response to offenders' dependent on alcohol and other drugs. Realization of these goals require a team approach, including cooperation and collaboration of the judges, prosecutors, defense counsel, probation authorities, other correction personnel, law enforcement, pretrial services agencies, TASC (Treatment Alternatives to Street Crimes) programs, evaluators, an array of local service providers, and the greater community. State-level organizations representing AOD issues, law enforcement and criminal justice, vocational rehabilitation, education, and housing also have important roles to play. The combined energies of these individuals and organizations can assist and encourage defendants to accept help that could change their lives.

#### **(2) Science-based Principals**

The Hamilton County Common Pleas Drug Court adheres to science-based principals, only accepting those who are assessed as drug/alcohol dependent. Drug Court has graduated hundreds of individuals, returning them to their communities as sober citizens.

#### **(3) Nonadversarial Program.**

Drug courts are properly characterized as nonadversarial programs. They are not diversion programs. Participants waive their right to the usual court proceedings, such as questioning or disputing the legality of a search, seizure, or traffic stop; and/or having a preliminary hearing; speedy trial and a trial by jury or court. (HCDR Participant Handout). The principal distinction in Drug Courts is that advocacy occurs primarily in staffing as opposed to court hearings, reserving the greater share of court time for intervening with participants rather than arbitrating uncontested facts or legal issues

How Drug Court Teams make decisions in this nonadversarial climate has constitutional implications. Due process and judicial ethics require Drug Court judges to exercise independent discretion when resolving factual controversies, ordering conditions of treatment and supervision, and administering sanctions and incentives that affect participants' liberty interests.

#### **(4) Multidisciplinary Team**

The Drug Court team comprises representatives from all partner agencies involved in the creation of the program, including but not limited to a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.

In drug court, the multidisciplinary team serves essentially as a panel of “expert witnesses” providing legal and scientific expertise for the judge. Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. Team members continue to uphold their professional roles or responsibilities. Prosecutors continue to advocate on behalf of public safety, victim’s interests, and participant accountability; defense counsel continue to advocate for participants’ legal rights; and treatment providers continue to advocate for effective and humane treatment.

The judge considers the perspectives of all team members before making decisions that affect participants’ welfare or liberty interests and explains the rationale for such decisions to team members and participants.

The Drug Court Judge makes the final decision regarding who participates in the Hamilton County Drug Court.

#### **(5) Compliance with Marcy’s Law**

Drug Court complies with Marcy’s Law. Marcy’s Law ensures that victims of violent crimes have the same co-equal rights as the accused and convicted.

### **(B) Multi-track Capability**

Eligibility for admission into Drug Court includes four separate tracks set forth herein:

#### **(1) Intervention in Lieu of Conviction (ILC)**

Ohio Revised Code Section 2951.041. An offender is eligible for admission into Drug Court and amenable to intervention in lieu of conviction if the court finds all of the following:

- (a)** The offender previously has not been convicted of or pleaded guilty to any felony offense of violence within the prior 5 years.
- (b)** The offense is not a felony of the first, or second, is not a felony sex offense, is not a violation of division (A)(1) or (2) of Aggravated Vehicular Homicide, 2903.06 of the Revised Code, is not a violation of division (A)(1) of Aggravated Vehicular Assault, 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal

ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term.

- (c) The offender is not charged with a violation of Corrupting Another With Drugs, 2925.02, Illegal Manufacture of Drugs, 2925.04, or Illegal Administration or Distribution of Anabolic Steroids, 2925.06 of the Revised Code, is not charged with a violation of Trafficking, 2925.03 of the Revised Code that is a felony of the first or second degree, and is not charged with a violation of Possession of Controlled Substances, 2925.11 of the Revised Code that is a felony of the first or second degree.

## **(2) Non-ILC Tracks**

Notwithstanding the eligibility under the criteria set forth in the Intervention in Lieu of Conviction statute, the following factors shall not automatically exclude an offender from eligibility to Drug Court but will prevent the offender from the benefits of the ILC statute:

- (a) Prior convictions of a felony offense of violence
- (b) Prior convictions for trafficking
- (c) Other criminal history

## **(3) Felony Probation**

This track provides services for participants who have failed ILC and/or who have received felony probation without a treatment requirement. The purpose of this track is to be as inclusive and as representative as possible regarding case eligibility for Drug Court.

## **(C) Eligibility Criteria for Drug Court Admission**

### **(1) Target Population (vol. I, page 5)**

The drug court targets offenders for admission who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision. – commonly referred to as high-risk and high-need offenders. These are the offenders who are (1) addicted to or dependent on illicit drugs or alcohol and (2) at high risk for criminal recidivism or failure in less intensive rehabilitative dispositions.

### **(2) Referral Process**

Cases are generally referred to HCDC automatically from Arraignment for F3, F4 and F5 Drug Charges and drug related offenses, (theft, receiving stolen property). Cases

may also be referred to HCDC from other Judges or after the assigned Judge considers a request by the Probation Department, Defense Attorneys or an ~~and the~~ Assistant Prosecutor.

**(3) Assessment Process**

Candidates for Drug Court are assessed for eligibility using validated risk-assessment and clinical-assessment tools. A series of assessments/interviews start when an individual is referred to HCDC. These assessments will vary but generally include an interview with the Defense Attorney, an in-court Triage Assessment, a pre-sentence investigation (PSI) by Adult Probation and Urine Screens ordered by the Judge. If these assessments reveal a health danger, in-patient treatment may be ordered.

**(4) Criteria Preventing Participation in Drug Court**

The following criteria shall prevent an offender entry into Drug Court:

- (a) The current offense is a felony of the first or second degree;
- (b) Candidate has a past criminal history of violence within 5 years of current charge.

**Effective: (March 1, 2023)**